REPORT
CORPORATE SERVICES COMMITTEE

DATE: May 20, 2025

REPORT NO: T-10-2025

SUBJECT: **Unsuccessful Tax Sale Property**

CONTACT: Katelyn Repovs, CPA, CA Director of Corporate Services/CFO

OVERVIEW:

- On October 30, 2024, the Township conducted a Municipal Tax Sale (sale of land by public tender) under the authority of the Municipal Act, 2001.
- A total of four properties were eligible for tax sale. Successful tenders were received for three properties. One property received no bids and remains outstanding.
- This report outlines the options now available to Council in regards to the one property that did not receive any bids.

RECOMMENDATION:

1. That, Recommendation Report T-10-2025, titled “Unsuccessful Tax Sale Property”, dated May 20, 2025, be received; and,
2. That, the Treasurer be authorized, under Sections 354(2) and (3) of the Municipal Act, to write-off outstanding taxes, penalties and interest as uncollectible, in the amount of $263,576.53, for the property described as Roll #2602 010 003 12300, PIN 46068-0099; and,
3. That, the Treasurer be authorized, under Sections 353(2) and (3) of the Municipal Act, to charge back the proportionate uncollectible amounts to the Region of Niagara and the applicable Boards of Education; and,
4. That, the Treasurer be authorized to place the property up for tax sale following the adjustments in Recommendations #2 and #3 above.

ALIGNMENT TO STRATEGIC PLAN:
Theme #4

- FOUNDATIONAL – Advance organizational capacity and effectiveness

BACKGROUND:

The municipal tax sale legislation, as outlined in the Municipal Act, allows properties with property taxes two or more years in arrears to be sold by the Municipality to facilitate the collection of past due taxes. Administration works with property owners who are in their second year of arrears in order to reduce the number of registered properties and the impact on collection and administration. In the summer of 2023, Administration registered a tax arrears certificate against 15 properties. These property owners had one year to pay the outstanding balance owing on their accounts. Failing payment, the properties were eligible for tax sale.

Four properties remained without payment and became eligible for tax sale. These four properties were advertised, based on the parameters outlined in the Municipal Act, on the Township website, the local newspaper and the Ontario Gazette for four consecutive weeks in September and October 2024. The tax sale was conducted on October 30, 2024 via a public tender process. While three properties received successful bids, one property received no bids. This report outlines the options that Council has regarding this one property that did not sell and remains outstanding.

CURRENT SITUATION:

The property that did not receive any bids is described as follows:
Roll Number: 2602 010 003 12300 000
Legal Description: 702 JOHN ST, CAISTOR CENTRE, PIN 46068-0099 LT, LT 7 W/S JOHN ST TP PL 26 CAISTOR; S/T EXECUTION 98-01123, IF ENFORCEABLE; WEST LINCOLN, FILE NAWL23-005.
Outstanding Balance Owing as of December 31, 2024: $305,969.37

The assessment roll indicates a commercial assessment with a value of $83,000. The property is approximately 0.40 acres in size. At the time of the tax sale, the outstanding balance, which represented the minimum tender amount, was $303,074.63.

The below chart provides a breakdown of the outstanding amount, as of December 31, 2024, by revenue category and taxing authority. The property has been in arrears since approximately 1995, therefore the balance below reflects approximately 30 years’ worth of tax arrears. Administration considers this to be the first time this property was offered for tax sale. The Breakdown by Taxing Authority outlines an approximation of the proportionate taxes that relate to the Township, Region, and Boards of Education, which was calculated using the 2024 tax rates. The Other Additions to Roll category includes amounts charged back to the roll related to past site clean-up costs.

	Balance, as of December 31, 2024	Breakdown by Taxing Authority: Township of West Lincoln	Region of Niagara	Boards of Education
Property Taxes	81,490.91	21,057.19	35,857.20	24,576.52
Penalty and Interest	206,381.32	206,381.32	-	-
Tax Sale Fees	3,920.20	3,920.20	-	-
Other Additions to Roll	14,176.94	14,176.94	-	-
	$ 305,969.37	$ 245,535.65	$ 35,857.20	$ 24,576.52

The Township has the following options with respect to this property:

1. Write Off Taxes/Penalty and Re-Advertise for Tax Sale at Lower Cancellation Price

The first option for Council's consideration is to write off a portion of the outstanding taxes and/or penalty on the property. If property taxes are written off, the Region and School Boards would be charged back their portion of the outstanding taxes. If penalty is written off, the Township would absorb 100% of the write-off, as the original revenue was strictly collected by the Township. The Township has a Provision for Uncollectible Taxes Receivable account to offset the impact of this write-off, as described further in the Financial Implications section.

In order to proceed in re-advertising this property for tax sale at a lower cancellation price, Council's approval of tax and penalty write-off needs to occur. The outstanding balance can be written down to reflect a value representative of two years' tax arrears. For this property, two years' arrears (that occurred in 2023 and 2024) equates to $42,392.84. A breakdown of this is as follows:

	Two Years' Arrears (2023 and 2024)
Property Taxes	4,742.55
Penalty and Interest	28,249.59
Tax Sale Fees	3,920.20
Other Additions to Roll	5,480.50
	$ 42,392.84

This means that the new cancellation price (minimum tender amount) would be set to recover the full $42,392.84, plus any further accumulated amounts up to the date of sale. The benefit of a lowered cancellation price is the increased likelihood of the property being more attractive to a potential purchaser, given the lower price. If Council would like to further reduce the cancellation price, writing off all or a portion of the penalty noted above could achieve this; Council would need to provide appropriate direction to Administration.

With the above noted price, a total write-off of $263,576.53 would be required; of this, the Township portion would be $206,659.89. The remaining write-off amount of $56,916.64 would be apportioned back, respectively, to the Region and Boards of Education. A breakdown is shown below:

		Breakdown by Taxing Authority		
	Potential Write-Off	Township of West Lincoln	Region of Niagara	Boards of Education
Property Taxes	76,748.36	19,831.72	33,770.41	23,146.23
Penalty and Interest	178,131.73	178,131.73	-	-
Tax Sale Fees	-	-	-	-
Other Additions to Roll	8,696.44	8,696.44	-	-
	$ 263,576.53	$ 206,659.89	$ 33,770.41	$ 23,146.23

The Township may then re-advertise the property for tax sale, pursuant to Section 380.1 of the Act, at a reduced cancellation price. By re-listing the property for tax sale, the Township is bound by the tax sale guidelines set out in the Municipal Tax Sale Rules under O. Reg. 181/03 and can only recover the amount of the cancellation price. Any amount received that exceeds the cancellation price is forfeited to the Courts and cannot be retained by the Township. Under this option, the Township does not take ownership of the property and therefore is not responsible for the risks of ownership, but limits the recovery available.

2. Vest Property into Ownership of the Municipality

The second option for Council's consideration is to register a Notice of Vesting, pursuant to Section 379(5)(b) of the Act. The municipality can elect to vest the property within two years after a public sale is conducted; therefore, this would need to occur before October 30, 2026. If the municipality does not register a Notice of Vesting or re-advertise the property for tax sale within two years of the tax sale date, the whole process is deemed to have been cancelled.

Once vested, the property would be owned by the Township and would become tax exempt. This would mean that the Township assumes full ownership risk related to the property, including liability for the property's condition. Under this option, all outstanding tax and penalty amounts would be written off pursuant to Section 354(2) and (3) of the Act. As indicated under Option 1 above, the Region and Boards of Education would be charged back for their portion of the outstanding taxes.

If vesting occurred, and the municipality wishes to then sell the property on the real estate market, it would not be bound by the tax sale guidelines set out in the Municipal Tax Sale Rules. However, based on the proceeds received, the Township would need to apportion the appropriate taxes back to the Region and Boards of Education if the sale takes place within seven years of vesting. If the Township chooses to sell the property more than seven years after vesting occurs, the Township retains all proceeds.

It is important to note that this property is an abandoned gas station site and there are past environmental concerns that have been previously communicated to Council. Further, the property size is small, at only 0.4 acres, and would have limited use to the Township. Therefore, given there is a liability risk to the Township if ownership occurred, Administration is not recommending that the Township vest this property at this time.

3. Re-Advertise for Tax Sale at Full Cancellation Price

The third option for Council's consideration is that the municipality can choose to re-advertise the property for tax sale one more time, within two years of the initial listing, in accordance with section 380.1(1) of the Municipal Act. The Act states that the minimum tender amount (cancellation price) must equal the outstanding taxes and interest on the property, plus any incurred fees. The cancellation price would be set to recover the full balance outstanding, plus any accumulated amounts up to the date of sale.
By re-advertising the property for tax sale, the municipality is bound by the tax sale guidelines set out in the Municipal Tax Sales Rules. Under this option, the municipality does not take ownership of the property and therefore is not responsible for the risks of ownership. However, considering the prior failed tax sale attempt, combined with the subsequent increase in cancellation price, the chance of receiving future tender bids under this option is considered low. Therefore, Administration would not recommend re-advertising for tax sale at the full cancellation price.

4. Analysis

Based on the three options noted above, Administration recommends that Council provide approval to pursue Option #1: Write Off Taxes/Penalty and Re-Advertise for Tax Sale at Lower Cancellation Price. This would require Council's approval of tax/penalty write-off as uncollectible of $263,576.53, of which $206,659.89 relates to the Township. Administration would then re-advertise the property for tax sale, after processing of the write-off, at a lower cancellation price.

If no offers are received after the re-advertisement, Council can choose to vest or not to vest the property. If Council chooses not to vest, tax arrears will continue to mount on these properties. The Provision for Uncollectible Taxes Receivable would have to be increased in order to reflect the unlikelihood of receiving payment for taxes and penalty.

FINANCIAL IMPLICATIONS:

Based on Council providing approval to proceed with Option #1, this would result in a write-off of $263,576.53. The portion of this write-off that would affect the Township is $206,659.89. Of this, $28,528.16 relates to property taxes and additions to the roll, while $178,131.73 relates to penalty and interest.

The remaining write-off amount of $56,916.64 relates to the amounts apportioned to the Region and Boards of Education, and will be recovered from the respective bodies through the normal year-end reconciliation processes.

The Township has established a Provision for Uncollectible Taxes Receivable account. This is an estimate of the portion of Property Taxes Receivable that is expected not to be collected. The Township currently has a balance of $259,900 in the provision account, based on amounts Administration estimate may be uncollectable over all properties.

If taxes and relating penalty are approved to be written off, as described above, the write-off related to the Township of $206,659.89 could be recovered through this Provision account. This would result in no impact to the Operating Fund. After this, there would be a balance remaining in the provision account of approximately $53,240.

INTER-DEPARTMENTAL COMMENTS:

This report was prepared in consultation with the Corporate Services Department and the Township's tax recovery solutions vendor, The Tax Team. It was reviewed by the Legal and Legislative Department and the CAO.

CONCLUSION:

In conclusion, Administration recommends that Council provide approval to pursue Option #1: Write Off Taxes/Penalty and Re-Advertise for Tax Sale at Lower Cancellation Price related to this unsuccessful tax sale property. This would result in a write-off of the Township portion of taxes and penalties of $206,659.89, of which the Township has an appropriate Provision for Uncollectable Taxes account to eliminate any impact to the Operating Fund. Once re-listed for tax sale, the property will be at a lower cancellation price, which increases the likelihood of attracting a potential purchaser. Further, under this option, the municipality does not take ownership of the property and therefore is not responsible for the risks of ownership.

At this point, Administration does not recommend vesting this property as there are past environmental concerns that could result in a liability to the Township and it is not required to meet any municipal needs at this point of time.

Prepared & Submitted by:

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Approved by:

Truper McBride
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